

(b) *Return of property*—(1) *General rule.* If an appropriate ATF officer determines that property has been wrongfully levied upon, the appropriate ATF officer may return:

- (i) The specific property levied upon,
- (ii) An amount of money equal to the amount of money levied upon (together with interest thereon at the overpayment rate from the date ATF receives the money to a date not more than 30 days before the date of return), or
- (iii) An amount of money equal to the amount of money received by the United States from a sale of the property (together with interest thereon at the overpayment rate from the date of the sale of the property to a date not more than 30 days before the date of return).

If the United States is in possession of specific property, the property may be returned at any time. An amount equal to the amount of money levied upon or received from a sale of the property may be returned at any time before the expiration of 9 months from the date of the levy. When a request described in paragraph (b)(2) of this section is filed for the return of property before the expiration of 9 months from the date of levy, an amount of money may be returned after a reasonable period of time subsequent to the expiration of the 9-month period if necessary for the investigation and processing of such request. In cases where money is specifically identifiable, as in the case of a coin collection which may be worth substantially more than its face value, the money will be treated as specific property and, whenever possible, this specific property will be returned. For purposes of paragraph (b)(1)(iii) of this section, if property is declared purchased by the United States at a sale pursuant to 26 U.S.C. 6335(e), the United States is treated as having received an amount of money equal to the minimum price determined by the appropriate ATF officer before the sale or, if larger, the amount received by the United States from the resale of the property.

(2) *Request for return of property.* A written request for the return of property wrongfully levied upon shall be addressed to the officer who authorized

the levy. The written request shall contain the following information:

- (i) The name and address of the person submitting the request,
- (ii) A detailed description of the property levied upon,
- (iii) A description of the claimant's basis for claiming an interest in the property levied upon, and
- (iv) The name and address of the taxpayer, the originating ATF office, and the date of lien or levy as shown on the Notice of Tax Lien, Notice of Levy, or, in lieu thereof, a statement of the reasons why such information cannot be furnished.

(3) *Inadequate request.* A request shall not be considered adequate unless it is a written request containing the information required by paragraph (b)(2) of this section. However, unless a notification is mailed by the officer who received the request to the claimant within 30 days of receipt of the request to inform the claimant of the inadequacies, any written request shall be considered adequate. If the officer who received the request timely notifies the claimant of the inadequacies of the request, the claimant shall have 30 days from the receipt of the notification of inadequacy to supply in writing any omitted information. Where the omitted information is so supplied within the 30-day period, the request shall be considered to be adequate from the time the original request was made for purposes of determining the applicable period of limitation upon suit under 26 U.S.C. 6532(c).

(26 U.S.C. 6343)

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, as amended by T.D. ATF-450, 66 FR 29026, May 29, 2001]

#### § 70.168 Redemption of property.

(a) *Before sale.* Any person whose property has been levied upon shall have the right to pay the amount due, together with costs and expenses of the proceeding, if any, to the appropriate ATF officer at any time prior to the sale of the property. Upon such payment the appropriate ATF officer shall restore such property to the owner and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) *Redemption of real estate after sale*—(1) *Period*. The owner of any real estate sold as provided in 26 U.S.C. 6335, the owner's heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 180 days after the sale thereof.

(2) *Price*. Such property or tract of property may be redeemed upon payment to the purchaser, or in case the purchaser cannot be found in the county in which the property to be redeemed is situated, then to the appropriate ATF officer, for the use of the purchaser, the purchaser's heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum. In case real and personal property (or several tracts of real property) are purchased in the aggregate, the redemption price of the real property (or of each of the several tracts) shall be determined on the basis of the ratio, as of the time of sale, of the value of the real property (or tract) to the value of the total property purchased. For this purpose the minimum price or the highest bid price, whichever is higher, offered for the property separately or in groups shall be treated as the value.

(c) *Record*. When any real property is redeemed, the appropriate ATF officer must cause entry of the fact to be made upon the record of sale kept in accordance with 26 U.S.C. 6340 and § 70.187 of this part, and such entry is evidence of such redemption. The party who redeems the property must notify the appropriate ATF officer of the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid.

(26 U.S.C. 6337)

[T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, as amended by T.D. ATF-450, 66 FR 29026, May 29, 2001]

**§ 70.169 Expense of levy and sale.**

The appropriate ATF officer shall determine the expenses to be allowed in all cases of levy and sale. Such expenses shall include the expenses of

protection and preservation of the property during the period subsequent to the levy, as well as the actual expenses incurred in connection with the sale thereof. In case real and personal property (or several tracts of real property) are sold in the aggregate, the appropriate ATF officer shall properly apportion the expenses to the real property (or to each tract).

(26 U.S.C. 6341)

**§ 70.170 Application of proceeds of levy.**

(a) *Collection of liability*. Any money realized by proceedings under 26 U.S.C. 6331 through 6344, or by sale of property redeemed by the United States (if the interest of the United States in the property was a lien arising under the provisions of 26 U.S.C. enforced and administered by the Bureau), is applied in the manner specified in paragraphs (a)(1), (2), and (3) of this section. Money realized by proceedings under 26 U.S.C. 6331 through 6344, includes money realized by seizure, by sale of seized property, or by surrender under 26 U.S.C. 6332 except money realized by the imposition of a 50 percent penalty pursuant to 26 U.S.C. 6332(d)(2)).

(1) *Expense of levy and sale*. First, against the expenses of the proceedings or sale, including expenses allowable under 26 U.S.C. 6341 and amounts paid by the United States to redeem property.

(2) *Specific tax liability on seized property*. If the property seized and sold is subject to a tax imposed by any provision of 26 U.S.C. which has not been paid, the amount remaining after applying paragraph (a)(1) of this section, shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed):

(3) *Liability of delinquent taxpayer*. The amount, if any, remaining after applying paragraphs (a)(1) and (2) of this section, shall then be applied against the liability in respect of which the levy was made or the sale of redeemed property was conducted.

(b) *Surplus proceeds*. Any surplus proceeds remaining after the application of paragraph (a) of this section shall, upon application and satisfactory proof